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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

In re A.H., a Person Coming Under the
Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

A.H.,

Defendant and Appellant.

E069832

(Super.Ct.No. J273805)

OPINION

APPEAL from the Superior Court of San Bernardino County. Winston S. Keh,
Judge. Affirmed.

Forest M. Wilkerson, under appointment by the Court of Appeal, for Defendant
and Appellant.

Xavier Becerra, Attorney General, Gerald A. Engler, Chief Assistant Attorney
General, Julie L. Garland, Assistant Attorney General, Scott C. Taylor and Alana Cohen
Butler, Deputy Attorneys General, for Plaintiff and Respondent.

The juvenile court sustained a petition pursuant to Welfare and Institutions Code section 602 that alleged 17-year-old defendant and appellant A.H. (minor) made a criminal threat against Mr. H in violation of Penal Code section 422.¹ On appeal, minor contends that the evidence is insufficient to establish that he made a threat, or that he intended his statement to be taken as a threat, or that he intended his statement to be transmitted to the victim, the assistant principal of his former high school, Mr. H. We reject these contentions and affirm the judgment.

BACKGROUND

In August 2016, a year before the incident that eventuated in this appeal, minor admitted an allegation of violating Penal Code section 422, after making threatening remarks to the effect that he would make his high school “look like Columbine.” The incident resulted in his expulsion from that school. Juvenile court proceedings stemming from the threat resulted in an order for informal supervision pursuant to Welfare and Institutions Code section 654.2. That case was closed in September 2017.

On a Friday afternoon in October 2017, 15-year-old Jane Doe went to a restaurant with two friends, A.C. and C.A. The restaurant was about a 10-minute walk from the high school she attended, which is the same school from which minor had been expelled a year earlier. When Ms. Doe was seated at a table with two other friends, N.C. and D.J., she saw minor approach C.A. and A.C. while they were at the cashier. She recognized minor because she and A.C. had met him a year or so earlier. It appeared that minor

¹ Statutory references are to the Penal Code unless otherwise noted.

joined C.A. and A.C., who sat at a table directly behind where Ms. Doe was sitting. She heard them speaking and turned around to listen. Minor was talking about shooting up a school and said he wanted to shoot Mr. H, who was the assistant principal of Ms. Doe's high school. Ms. Doe saw minor slam his fists onto the table and thought he was getting kind of mad. A.C. and C.A. wanted to leave, but Ms. Doe was not scared. She just walked away and went to the bathroom.

Later that day, minor and his brother went to a football game at Ms. Doe's high school. Mr. H asked minor to leave, explaining that he was not allowed on campus because he had been expelled. Minor replied that he was unaware that he could not be there, apologized, and left. Before leaving, he also told Mr. H that he was sorry for the incident that had led to his expulsion. Minor did not express any anger or animosity during this interaction.

The following Monday, Ms. Doe told someone at the high school (she believed it was Mr. H, but he said not) about minor's statement that he wanted to shoot Mr. H. An unidentified adult then informed Mr. H that, before the football game, minor had made threats against the high school and against him specifically. Mr. H was alarmed and feared for his personal safety. He believed the shooting could happen at any moment.

Minor, who adamantly denied making the statements, was arrested that afternoon and released to his father's custody that evening.

On November 20, 2017, the district attorney filed a Welfare and Institutions Code section 602 petition alleging that minor violated Penal Code section 422 because of his threat to commit a crime that would result in death and great bodily injury to Mr. H.

Following a contested hearing on January 10, 2018, the petition was sustained. Minor was adjudged a ward of the court. He was placed on probation and permitted to remain in his parents' custody.

DISCUSSION

Minor contends the evidence is insufficient to support the juvenile court's finding that his conduct violated section 422. We disagree.

Our review of any claim of insufficiency of the evidence is limited. Our task is to consider the entire record in a light most favorable to the judgment to determine whether it discloses substantial evidence such that a trier of fact could find the defendant guilty beyond a reasonable doubt. (*People v. Kipp* (2001) 26 Cal.4th 1100, 1128.) Evidence is substantial if it is reasonable, credible, and of solid value. (*Ibid.*) Weighing evidence, assessing credibility, and resolving conflicts in evidence and in the inferences to be drawn are in the exclusive domain of the trial court. (*People v. Ochoa* (1993) 6 Cal.4th 1199, 1206.) Evidence from a single witness can be sufficient to support a trial court's findings even if other evidence supports a contrary finding. (*People v. Young* (2005) 34 Cal.4th 1149, 1181.) Since the standard of proof in juvenile proceedings is the same as the standard in adult criminal trials, the principles of appellate review of criminal trials are applicable when considering the sufficiency of the evidence in juvenile delinquency adjudications. (*In re Roderick P.* (1972) 7 Cal.3d 801, 809.)

To sustain a finding that minor made a criminal threat in violation of section 422, the prosecutor was required to prove five elements beyond a reasonable doubt: (i) he must have willfully threatened—verbally, in writing, or by means of an electronic

communication device—to commit a crime that would result in death or great bodily injury to another person, (ii) he must have intended the statement to be taken as a threat, even if he had no intention of actually going forward with the crime, (iii) the statement on its face and under the circumstances it was made must be so unequivocal, unconditional, immediate, and specific as to convey a gravity of purpose and an immediate prospect of execution of the threat, (iv) the threat must actually have caused the person threatened to be in sustained fear for his safety or the safety of his immediate family, and (v) the threatened person’s fear must have been reasonable in the circumstances. (*In re George T.* (2004) 33 Cal.4th 620, 630.)

In this case, minor challenges the sufficiency of the evidence as to the first two elements. He asserts that he did not threaten to commit a crime, and, even if he had, he did not intend for his remarks to be taken as a threat nor intend them to be communicated to Mr. H or anyone else.

The first element, whether minor willfully threatened to commit a crime, is gleaned from the statement made by minor, as well as from all of the surrounding circumstances, which give meaning to the words used. (*People v. Culbert* (2013) 218 Cal.App.4th 184, 190.) The second element requires proof that minor had the specific intent that his words would be taken as a threat. (*In re David L.* (1991) 234 Cal.App.3d 1655, 1659 (*David L.*)) And, if the threat is not communicated directly to the victim but is instead made to a third person who communicates it to the victim, the intent element of section 422 is implicated and it must be shown that the defendant specifically intended that the threat be conveyed to the victim. (*David L.*, at p. 1659.)

As to the first element, minor said he “wanted to shoot” Mr. H.” A year earlier, he threatened to make the school “look like Columbine.” As a result, he had been placed on informal probation and, after proceedings in which Mr. H had been involved, he was expelled from his high school. At that time, it became known that minor’s father had firearms in the home. Not even a month had passed since the minor completed his informal probation before, on a Friday afternoon shortly after the end of the school day, he went into a restaurant frequented by students that was only a 10-minute walk from the high school where Mr. H worked, and he told a group of teenagers that he wanted to shoot Mr. H. After minor made that statement, two of Ms. Doe’s friends, A.C. and C.A., just wanted to get out of the restaurant. And, Ms. Doe saw minor slam his fists on the table and observed he was getting kind of mad. In the circumstances, there is ample support for the juvenile court’s conclusion that the words constituted an unambiguous threat.

Minor’s history and the circumstances surrounding his statement also provide ample support for the juvenile court’s finding as to the second element, which required the prosecution to establish that, when the minor said he “wanted to shoot” Mr. H, he intended to make a threat and intended that it be communicated to Mr. H. The content of the threat made a year earlier made clear minor’s awareness of the Columbine High School tragedy, a mass shooting. (See *In re George T.*, *supra*, 33 Cal.4th at p. 628, fn. 3.)

Moreover, as already noted, when he threatened to shoot Mr. H, minor was in a restaurant within a 10-minute walk of the high school from which he had been expelled after making the Columbine threat and where Mr. H was employed, and he was in the

presence of several teenagers. Although it is not clear that minor knew whether the teens attended Mr. H's high school, it is reasonable to infer he did. Not only was the restaurant close to the campus, but he was there on a Friday afternoon very soon after the school day ended, and he had attended the high school with at least two students in the restaurant, Ms. Doe and A.C. From this evidence, a rational trier of fact could readily conclude that minor intended for the threat to be communicated to Mr. H.

Minor contends that the prosecution did not establish the exact words he used, and that Ms. Doe's testimony that he was "talking about shooting up the school" and "want[ing] to shoot" Mr. H are too vague, ambiguous, and nonspecific to be sufficient on their face to constitute a criminal threat. The argument is unavailing. Section 422 does not require exactitude. Minor does not cite, and we have not found, authority to support the notion that the prosecution must establish verbatim the statement made by a defendant accused of making a criminal threat. Rather, it is well-settled that an ambiguous or incomplete statement is sufficient to support the finding that a criminal threat was made when the circumstances surrounding the utterance reasonably lead to that conclusion. (*People v. Hamlin* (2009) 170 Cal.App.4th 1412, 1433; *People v. Martinez* (1997) 53 Cal.App.4th 1212, 1218.)

Relying on *In re Ryan D.* (2002) 100 Cal.App.4th 854, minor posits that the evidence to establish that he intended a threat is insufficient because Ms. Doe was not scared and did not think his statement sufficiently serious to report it right away. The focus of section 422 is on the reaction of the victim, not the precise words used or the impact on the person who heard the threat and communicated it to the victim. (*People v.*

Wilson (2010) 186 Cal.App.4th 789, 807.) *Ryan D.* does not hold otherwise. In that case, the minor fulfilled a class assignment by creating a painting depicting him shooting the police officer who had a month or so earlier issued a citation to the youngster for possession of marijuana. (*Ryan D.*, at p. 858.) The Court of Appeal reversed the order sustaining the charge of a section 422 violation, explaining that no one, including the officer in the painting and her colleague, treated the artwork as reflecting any intent to threaten the police officer, even though there had been several shootings on the school premises. (*Id.* at p. 865.) The opinion did not address a situation like the present one in which the person hearing the threat was not the intended victim and was not caused to be afraid.

Here, although Ms. Doe was not frightened by minor's statements and did not tell anyone about them right away, she did report them when she went to school the following Monday and they were communicated to Mr. H that day. And, when Mr. H, heard what minor had said, he was alarmed and concerned for his personal safety even though he had seen minor after the threat was made and, at that time, minor was respectful and had apologized for the problems he caused when he made a threat the year before.

Also unavailing is minor's claim that, to establish intent to have a threat communicated to the victim, a defendant must shout it out so anyone could hear or that the third party who repeats the threat be the person intended by the defendant to convey the message. The cases he cites do not support his argument but instead confirm our view the juvenile court properly inferred minor's intent for his threat to be communicated

from the surrounding circumstances. In *People v. Felix* (2001) 92 Cal.App.4th 905, the court found that the defendant did not intend to communicate his threat to the victim because it was made in course of a therapy session where he had an expectation of confidentiality. (*Id.* at p. 914.) On the other hand, intent for a threat to be communicated was found in *David L.* where the evidence established that the defendant related the threat to a friend of the victim. (*David L.*, *supra*, 234 Cal.App.3d at pp. 1658-1659.) It was reasonable to infer that the defendant intended for the threat to be communicated to the victim because the friend knew the defendant had been harassing the victim and had witnessed a violent altercation between them the day before the threat was made. (*Ibid.*)

Accordingly, in viewing the evidence in a light most favorable to the judgment, we find there was sufficient evidence that minor verbally made a threat intended to be taken as such and intended to be communicated to the victim, who was reasonably caused to be in fear for his own safety.

DISPOSITION

The judgment is affirmed.

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RAMIREZ

P. J.

We concur:

FIELDS

J.

RAPHAEL

J.